

House Bill 504

By: Representatives Hill of the 21st, Knight of the 126th, and Day of the 163rd

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to private detectives and security agencies, so as to revise a definition; to revise the licensing process for private detectives and private security officers; to permit one or more individuals to qualify to hold the license for an individual, firm, association, company, partnership, limited liability company, or corporation; to provide the board with authority to promulgate rules to ensure that individuals are capable of assuming full responsibility for operations of the particular individual, firm, association, company, partnership, limited liability company, or corporation; to revise the provisions for issuing permits for carrying firearms for certain private detectives and private security officers; to revise the provisions for granting of training instructor licenses to certain individuals; to remove the provisions making the chapter inapplicable to persons engaged in the business of furnishing information in connection with credit or marketing or engaged as a consumer reporting agency; to provide that engaging in private detective business or private security business without a license is a felony; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to private detectives and security agencies, is amended by revising paragraph (3) of Code Section 43-38-3, relating to definitions, as follows:

"(3) 'Private detective business' means providing or accepting employment to provide protection of individuals from death or serious bodily harm or the business of obtaining or furnishing, or accepting employment to obtain or to furnish, information, including but not limited to any type of digital or electronic information, with reference to:

(A) Crimes or wrongs done or threatened against the United States of America or any state or territory thereof;

(B) The background, identity, habits, conduct, business, employment, occupation, assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(C) The location, disposition, or recovery of lost or stolen property;

(D) The cause or responsibility for fires, libels, losses, accidents, damage, or injury to persons or property;

(E) The securing of evidence in the course of the private detective business to be used before any court, board, officer, or investigating committee; or

(F) The protection of individuals from serious bodily harm or death."

SECTION 2.

Said chapter is further amended by revising subsection (a) of Code Section 43-38-4, relating to creation of board, members, secretary, records, and general powers and duties, as follows:

"(a) There is created the Georgia Board of Private Detective and Security Agencies. The board shall consist of seven members, each of whom shall be appointed by the Governor. Each member shall serve for a term of four years. Four members shall be engaged in the contract private detective or contract private security business and shall have at least four years of experience in such business immediately preceding their appointment; provided, however, that ~~on and after October 1, 1987, at least two members~~ at least one member shall be engaged in the contract private security business and at least one member shall have at least four years of experience in the business of imaging or conducting analysis, examination, or investigation of digital or electronic data. Two members shall be engaged in state, county, or municipal law enforcement and shall have at least four years of experience in governmental law enforcement immediately preceding their appointment. One member shall be appointed from the public at large. At the first meeting of the board held each year, the members shall elect a ~~chairman~~ chairperson to serve for one year. The Governor may remove any member of the board for neglect of duty, incompetence, or other unethical or dishonorable conduct. After such removal or after the creation of a vacancy due to death, resignation, or ineligibility, the Governor shall appoint a successor to serve the unexpired term. Appointees to the board shall, immediately after their appointment, take and subscribe to a written oath or affirmation required by law for all public officers."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 43-38-6, relating to licenses and qualifications, as follows:

"(a) Any individual, firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private detective or private security business in this state shall make a verified application in writing to the division director for a license therefor. If the applicant is a firm, association, company, partnership, limited liability company, or corporation, the person filing the application on behalf of such firm, association, company, partnership, limited liability company, or corporation shall be a corporate officer of such corporation or an officer of such firm, association, partnership, or limited liability company; and such provided, however, that the applicant of a firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private security business may be the chief security officer, or equivalent position, of such entity. Such individual shall meet the qualifications set out in this Code section."

SECTION 4.

Said chapter is further amended by revising paragraph (7) of subsection (b) of Code Section 43-38-6, relating to licenses and qualifications, as follows:

"(7)(A) The applicant for a private detective company license has:

(i) At ~~had at~~ least two years' experience as an agent registered with a licensed detective agency, or has had at:

(ii) At least two years' experience in law enforcement, or has a as a peace officer as defined in subparagraph (A) of paragraph (8) of Code Section 35-8-2 or as defined by equivalent law in another state;

(iii) At least two years' experience as an investigator with a local, state, or federal agency or a branch of the United States armed forces;

(iv) Investigative experience as the board deems sufficient; or

(v) A four-year degree in criminal justice or a related field from an accredited university or college; and or

(B) The ~~the~~ applicant for a security company license has:

(i) At ~~had at~~ least two years' experience as a supervisor or administrator in in-house security operations or with a licensed security agency, or has had:

(ii) At ~~at~~ least two years' experience in law enforcement, or has a as a peace officer as defined in subparagraph (A) of paragraph (8) of Code Section 35-8-2 or as defined by equivalent law in another state;

(iii) At least two years' experience as a security supervisor or administrator with a local, state, or federal agency or a branch of the United States armed forces;

(iv) Security experience as the board deems sufficient; or

(v) A four-year degree in criminal justice or a related field from an accredited university or college;"

SECTION 5.

Said chapter is further amended by adding a new subsection to Code Section 43-38-6, relating to licenses and qualifications, to read as follows:

“(j) In addition to the initial applicant, any individual, firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private detective or private security business may choose to designate one or more individuals to qualify to hold the license for the individual, firm, association, company, partnership, limited liability company, or corporation. Such individual or individuals shall meet the same qualifications set out in this Code section as relate to the initial applicant, and the board shall have the authority to promulgate rules and regulations necessary to ensure that such additional individual or individuals are capable of assuming full responsibility for the operations of the particular individual, firm, association, company, partnership, limited liability company, or corporation in compliance with this Code section and with all rules and regulations promulgated pursuant to this Code section.”

SECTION 6.

Said chapter is further amended by revising subsection (a) of Code Section 43-38-10, relating to permits to carry firearms, proficiency requirement, exemption from specified laws, denial, refusal to renew, and suspension of permits, and effect of license suspension and restoration, as follows:

"(a) The board may grant a permit to carry a ~~pistol, revolver, or other~~ firearm to any person who is at least 21 years of age, ~~and who~~ is licensed or registered in accordance with this chapter, ~~and who~~ meets the qualifications and training requirements set forth in this Code section and such other qualifications and training requirements as the board by rule may establish, and is not prohibited by federal or state law from the purchase or possession of a firearm. The board shall have the authority to establish limits on type and caliber of such weapons by rule. Application for such permit and for renewal thereof shall be made on forms provided by the division director. No weapons permit issued under this Code section shall be transferable to another individual."

SECTION 7.

Said chapter is further amended by adding a new subsection to Code Section 43-38-10, relating to permits to carry firearms, proficiency requirement, exemption from specified laws,

denial, refusal to renew, and suspension of permits, and effect of license suspension and restoration, to read as follows:

"(k) The board shall have the authority to refuse to grant a weapons permit to an applicant or to revoke the registration of a person registered by the board if that person would be ineligible for issuance of a license or permit pursuant to subsection (b) of Code Section 16-11-129 or if such person would be prohibited under federal or state law from purchasing or possessing a firearm."

SECTION 8.

Said chapter is further amended by adding a new subsection to Code Section 43-38-10.1, relating to training instructors and training programs, to read as follows:

"(e) The board shall have the authority to refuse to grant a training instructor license to an applicant or to revoke the registration of an instructor licensed by the board if that person would be ineligible for issuance of a license or permit pursuant to subsection (b) of Code Section 16-11-129 or if such person would be prohibited under federal or state law from purchasing or possessing a firearm."

SECTION 9.

Said chapter is further amended by revising subsection (a) of Code Section 43-38-14, relating to exceptions to operation of chapter and to local regulation, as follows:

"(a) This chapter shall not apply to:

(1) An officer or employee of the United States of America or of this state or a political subdivision thereof while the employee or officer is engaged in the performance of official duties;

(2) A person engaged in the business of furnishing information in connection with credit or marketing and a person or firm engaged as a consumer reporting agency, as defined and regulated by the federal Fair Credit Reporting Act;

(3) An attorney at law or a bona fide legal assistant in performing his or her duties;

(4) Admitted insurers, agents, and insurance brokers licensed by the state while performing duties in connection with insurance transacted by them;

(5) A peace officer employed on a full-time basis by a federal, state, county, or local law enforcement agency who contracts directly with an employer to work during his or her off-duty hours and whose off-duty employment is conducted on an independent contractor basis with another employer other than a peace officer engaged in the private detective or private security business or a private detective or private security agency, subject to Code Section 16-10-3, relating to the receipt of funds by state officers or employees for the enforcement of penal laws;

(6) A firm engaged in the business of independent insurance claims adjusting whose employees hold a valid Georgia adjuster's license; ~~or~~

(7) The employees of a firm mentioned in paragraph (6) of this subsection; or

(8) A person whose professional practice is licensed or regulated by another agency or board of this state when such person's conduct falls within the scope of practice for such other profession. In the event the professional's conduct falls within the scope of activity regulated both by this chapter and elsewhere under state law, this chapter shall not regulate such professional's conduct."

SECTION 10.

Said chapter is further amended by revising Code Section 43-38-16, relating to penalties, as follows:

"43-38-16.

Any person who engages in the private detective business or private security business or offers, pretends, or holds himself or herself out as eligible to engage in the private detective business or private security business and who is not legally licensed or registered under this chapter shall be guilty of a ~~misdemeanor~~ felony and, upon conviction thereof, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for not less than one year nor more than three years, or both. Each day or fraction of a day that he or she practices in violation of this chapter shall constitute a separate offense."

SECTION 11.

This Act shall become effective July 1, 2007, and shall not apply to any offense committed before that date. Any such offense committed before that date shall be governed by the statute in effect at the time the offense was committed.

SECTION 12.

All laws and parts of laws in conflict with this Act are repealed.